Remarks/Arguments:

Pending in the application are claims 1, 3, 5, 7-25, 29, 30, 32-47, and 54-73. By this amendment, Applicant has amended claim 16 to correct an error in the claim's dependency and claim 57 to provide antecedent basis. Additionally, Applicant has amended claims 65-70 to recite a method commensurate in scope with the system previously claimed.

In the Office Action dated January 26, 2005 claims 1, 3, 5, 7-25, 29, 30, 32-47, and 54-73 were rejected for obviousness on the basis of U. S. Patent No. 6,636,835 issued to Ragsdale-Ellliot (hereinafter "Ragsdale") in view of Kurland and Yanagawa. For the reasons expressed below, Applicant respectfully submits that the amended claims are nonobvious with respect to the cited references.

First Yanagawa teaches away from the invention and cannot, therefore, be used alone or in combination with other references to render the invention obvious. As described by the last line of the abstract, and throughout Yanagawa, the reference is directed to a data processing system for improving security. Moreover, Yanagawa describes that a remote updating means 22a, on receiving a transaction request from the POS [Point of Sale] terminal 5, assembles a message including the transaction data and transmits the transaction data to the host computer 10 to update customer data stored in the ledger file 11A of the host computer 10. See column 4, lines 1-5. Yanagawa also describes a customer data batch extracting means 12 [reading] a ledger file, then [checking] the credit balance management file 111, FIG. 4, to determine whether or not black list information is included (step S2), and further determining whether or not the credit balance is less than a predetermined amount (step S3). See column 6, lines 20-25.

Since Yanagawa teaches updating the customer data (that includes black list and credit balance information) via the POS terminals, allowing customers unrestricted access to any POS terminal would be a serious breach of security. This is so because once allowed access to the system less than scrupulous customers could update their blacklist and credit balance information thereby perpetrating fraud against the system owner. Accordingly, Yanagawa teaches away from patron stations that are configured to receive order input from patrons as recited by claim 1. Since Yanagawa teaches away from the claimed invention, Yanagawa cannot be used to render claim 1 obvious.

Moreover, neither Ragsdale, Kurland, nor Yanagawa teach or even suggest a central server as set forth in claim 1. As set forth in the previous response, the central computer (data

base) 22 of Kurland cannot be reasonably classified as a central server as Applicant has used that term. That is, the Kurland patent fails to teach or suggest the integration of an establishment-wide system with a central server. Moreover, as the Office Action admits, Ragsdale fails to disclose a central server. Assuming arguendo that it is permissible to use Yanagawa to render the invention obvious, the Office Action asserts that Yanagawa discloses a central server 2. However, the reference 2 points to a telecommunications network rather than a server. See column 1, line 40. Thus, neither Yanagawa, Ragsdale, nor Kurland describe the claimed central server.

Yanagawa, however, does describe a host computer 1 installed in a bank or a like facility [and that is] is connected to store controllers 4 installed in stores 3A, 3B, and 3C, such as department stores, through a public telecommunications network 2. Each of stores 3A, 3B and 3C has a store controller 4 and POS terminals 5 connected to the store controller 4. See column 1, lines 24-30. Moreover, Yanagawa describes a ledger file 6 [that is] incorporated in the host computer 1 [and that] stores customer data, including credit or debit balances of computers authorized to use a credit card at stores 3A, 3B, and 3C. See column 3, lines 43-47.

In contrast, and in pertinent part, claim 1 recites a central server in communication with said establishment server, said central server being configured to communicate at least a portion of said advertisement selection program to said establishment server. Yanagawa, as set forth above, describes a host computer that stores customer credit information. Otherwise, *Yanagawa is silent regarding a central server that is configured to communicate an advertisement selection program to the POS terminals*. Moreover, because the customers are restricted from accessing the POS terminals (again, see above) no teaching, suggestion, or motivation exists to modify the POS terminals to display advertising. For that same reason, there is no teaching, suggestion, or motivation to modify the host computer of Yanagawa to communicate an advertisement selection program to the POS terminals.

Likewise, the other references (Ragsdale and Kurland) also fail to disclose the communication of an advertisement selection program from a central server to an establishment server. With regard to Ragsdale, the Office Action asserts that it is common practice in the field to base advertisement selections upon a variety of rules. However Ragsdale, with the exception of revealing a patron selectively touching a location for viewing advertisement descriptions (see column 7, line 18-21), is silent regarding an advertisement selection program, and it is particularly silent with respect to the distribution of such an

advertisement selection program from a central server to an establishment server. Similarly, while Kurland describes a system that provides integrated food and entertainment processing (see column 3, lines 40-41), Kurland is also silent regarding an advertisement selection program and the communication of such an advertisement selection program from a central server to an establishment server. Thus, the Applicant submits that the proposed combinations fails to describe the advertisement selection program limitations of the independent claims.

The Applicant also respectfully notes that the Office Action is unclear with respect to how the Examiner believes that the advertisement selection program limitations of the claims are alleged to be taught or disclosed by the cited references. While the Office Action asserts that it would have been obvious to locate the advertisement on the central server, the Office Action is otherwise silent regarding an advertisement selection program. Also, while the Office Action otherwise addresses the limitations of independent claim 1, the Applicant likewise submits that it is unclear whether the examination included an evaluation of the particular limitations of independent claims 24, 46, 54, 65, and 71. For example, there is no discussion in the Office Action of how the Examiner contends that the cited references render the claim 65 obvious.

Since the proposed combination of references is impermissible and because the combination fails to disclose either a central server or the communication of at least a portion of an advertisement selection program from a central server, the Applicant respectfully requests that the rejection of claim 1 and the claims dependent there from (claims 3, 5, 7-23 and 57-60) be withdrawn. For similar reasons, the applicant requests that the rejection of claims 24-25, 29, 30, 32-47, 54-56 and 61-73 be withdrawn.

Regarding claim 21, the Office Action asserts that it would have been obvious to modify Ragsdale to include a server in communication with a plurality of selectable music selections. However, claim 21 recites that the establishment server is in communication with a music playing device. Such an embodiment is illustrated by Figure 10 which shows a separate establishment server and a music playing device.

Kurland, however, describes a table station terminal 12 [that] preferably has two basic modes of operation, the food selection mode and the entertainment mode. See column 5, lines 43-45. Further, the operating program or module, whether a food menu module used for food selection or order entry, or an entertainment module used for entertainment selection and

interactive game or other entertainment activity, can display portions of the requisite information or data on video display unit 48. See column 6, lines 20-25. Thus, the table station terminal is the entertainment device.

In contrast, claim 21 recites a music playing device that is in communication with the establishment server. Accordingly, the music playing device and establishment server are separate devices as opposed to the table station terminal of Kurland. With regard to Ragsdale, the Office Action admits that the reference differs from the current invention in that it does not include a server in communication with a plurality of selectable music selections.

Since neither Ragsdale nor Kurland disclose a music playing device that is in communication with an establishment server as set forth in claim 21, it is respectfully submitted that claim 21 is patentable over the combination of Ragsdale and Kurland for this additional reason.

Conclusion.

For the foregoing reasons, Applicant respectfully submits that the pending claims are allowable. Favorable action is respectfully requested.

Respectfully submitted,

Robert L. Villhard Jr.
Reg. No. 53725
Thompson Coburn LLP
One US Bank Plaza
St. Louis, Missouri 63101
(314) 552-6000
(314) 552-7000 (fax)